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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,984	01/11/2000	MICHAEL D. DOYLE	19850-2US	6418

30080 7590 05/28/2003

LAW OFFICE OF CHARLES E. KRUEGER  
P.O. BOX 5607  
WALNUT CREEK, CA 94596-1607

EXAMINER

EL HADY, NABIL M

ART UNIT	PAPER NUMBER
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2154

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DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/481,984

Applicant(s)

DOYLE, MICHAEL D.

Examiner

Nabil M El-Hady

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/29/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/29/2003 has been entered.

2. Claim 4 is pending in this application.

3. The reference to a source code appendix in page 8, lines 12-13 is objected to for the following reasons: the computer program listing submitted with the application cannot be printed because the appendix is having over 300 lines. The computer program listing must be submitted on a compact disc in compliance with 1.52(e) and no other format shall be allowed (e.g. microfiche). A compact disc containing such computer program listing is to be referred to as a "computer program listing appendix". The "computer program listing appendix" will not be part of the printed patent. The specification must include a reference to the "computer program listing appendix" at the location indicated in 1.77(b)(4).

4. In accordance with 37 CFR 1.96(c), a computer program listing printout of more than three hundred lines must be submitted as a computer program listing appendix on compact disc conforming to the standards set forth in 37 CFR 1.96(c)(2) and must be appropriately referenced in the specification (see 37 CFR 1.77(b)(4)). Accordingly, applicant is required to cancel the computer program listing appearing in the microfiche and file a computer program listing appendix on compact disc in compliance with 37 CFR 1.96(c) and insert an appropriate

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reference to the newly added computer program listing appendix on compact disc at the beginning of the specification.

5. Applicant(s) are advised to submit duplicate copies of the compact disc and indicate in a statement in a transmittal letter that the two compact discs are identical.

6. Applicant(s) are advised that a transmittal letter must list for each compact disc, the machine format, the operating system compatibility, a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc as required by 37 CFR 1.52(e)(3). A statement listing the required information is required.

7. Applicant(s) are advised that when portions of an application are contained on a compact disc, the paper portion of the specification must identify the compact disc(s) and list the files including name, file size, and creation date on each of the compact discs. See 37 CFR 1.52(e). Applicant is required to amend the specification to identify each disc and the files contained on each disc including the file name, file size, and file creation date.

8. Applicant(s) are required to insert in the specification an incorporation-by-reference of the material on the compact disc(s). See 37 CFR 1.77(b)(4).

9. Applicant(s) are required to resubmit file(s) in ASCII format. No new matter may be introduced in presenting the file(s) in ASCII format.

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10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack antecedent basis:

a) "the installed base of ....", line 13.

12. Claim 4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gwertzman et al. (USPN 6,189,000) ; Straub et al. (USPN 6,216,141) ; Pogrebisky et al. (USPN 5,958,008) ; Farris et al. (USPN 6,167,253) ; and Dole et al. (USPN 5,838,906).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M El-Hady whose telephone number is (703) 308-7990. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T An can be reached on (703) 305-9678. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'N. El-Hady', with a long, sweeping vertical stroke extending downwards from the end of the signature.

Nabil El-Hady, Ph.D, M.B.A.  
Primary Patent Examiner  
May 21, 2003